

reporting and analysis system that did not exist in 1983, to track these LECs' accounts over time and to compare these accounts to the accounts of other LECs. This too helps the agency detect efforts by these independent LECs to raise the costs of interstate service competitors by misallocating costs of providing interstate service to access service.^{33/}

The FCC's 1990 price cap rules, which changed the way the agency regulates the access charges of many LECs, including SNET, have further reduced the ability of those LECs to leverage power in the access service market by raising their interstate service competitors' access costs.^{34/} Under the "rate-of-return" regulatory regime that existed before 1990, a LEC theoretically could misallocate costs from interstate service to access service and by doing so increase the price for access service by an equivalent amount. But the FCC's 1990 rules allow many independent LECs to elect price cap" regulation in lieu of rate-of-return regulation as the means to control interstate access service prices. Price cap regulation reduces a LEC's ability to raise the access service

^{33/} Id., 6 FCC Rcd. at 7593-94. See also U.S. v. West. Elec. Co., 993 F. 2d 1572, 1580 (D.C. Cir. 1993) (the existence of many LECs increases the number of benchmarks that can be used by regulators to detect discrimination).

^{34/} The Commission's price cap regulations were adopted in Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd. 6786 (1990), recon., 6 FCC Rcd. 2637 (1991), aff'd. sub nom. Nat. Rural Teleph. Ass'n v. FCC, 988 F.2d 174 (D.C. Cir. 1993). See also LEC Price Cap Performance Review for Local Exchange Carriers, First Report and Order, 10 FCC Rcd. 8961 (1995), aff'd. Bell Atlantic Corp. v. FCC, No. 95-1217 (D.C. Cir. March 29, 1996).

costs of its interstate service competitors by capping access rates at specified levels, thereby breaking the link between prices and allocated costs as the FCC itself recognizes.^{35/} The interstate access rates of LECs owning one-third of independent-LEC-owned access lines are now controlled by price cap regulation.

FCC regulations promulgated since 1983 also reduce any theoretical risk that an independent LEC will provide interstate access on discriminatory terms. In 1985, the agency established rules (a) barring discriminatory provision of access service, (b) defining what it means to provide access service on discriminatory terms, and (c) requiring all LECs to comply with these new rules over a transition period which has now ended.^{36/} Almost every independent LEC now offers non-discriminatory interstate access arrangements to all interstate carriers in all (or nearly all) of that LEC's end offices.^{37/}

^{35/} See, e.g., Notice at ¶136 ("We believe that price cap regulation . . . reduces the potential . . . [to] improperly allocate . . . costs"). Not only has the FCC found that price cap regulation reduces a LEC's ability to raise its interstate service competitor's costs, the D.C. Circuit Court has too. See U.S. v. West. Elec. Co., *supra*, 993 F.2d at 1580 ("the FCC move in the direction of price cap regulation . . . reduces . . . [the LEC's ability] to shift costs . . . [to access services] because the increase in costs for the [access service] . . . does not automatically cause an increase in the legal rate ceiling").

^{36/} See MTS and WATS Market Structure, Report and Order, 100 F.C.C.2d 860, 875 (1985).

^{37/} Fed. Commun. Comm., Trends in Telephone Service (Feb. 1995). For example, SNET now provides equal access for interstate calls in all of its nearly 140 end offices. FCC rules also require all independent LECs providing in-region interstate service to
(continued...)

Two years ago, the Commission made discriminatory provision of access service even more difficult by promulgating its expanded interconnection rules.^{38/} The agency has held that these new requirements, which apply to more than 85 percent of independent-LEC-controlled access lines, further "improve [the agency's] ability to . . . prevent . . . discrimination."

II. The Principle of Reasoned Decision Making Also Requires the Commission To Let Independent LECs Provide Interstate Service Under Non-Dominant Regulation Through The Same Entity that Provides Access Service

Not only should the FCC let independent LECs provide interstate service under non-dominant regulation through the entity that

^{37/} (...continued)
comply with similar rules by no later than August 8, 1997 for the provision of intraLATA toll calls. More specifically, these rules require the subject independent LECs to provide both dialing parity and two-PIC presubscription for all intraLATA toll calls. See Implementation of Local Competition Provisions of the Telecom. Act of 1996, Second Report and Order, supra, at ¶¶22-63. SNET already provides dialing parity and two-PIC presubscription to 84.7 percent of its access lines, and by November 25, 1996, the company will provide these equal access arrangements for intraLATA toll calls to all of its access lines.

^{38/} See Expanded Interconnection with Local Tel. Co. Facilities, Report and Order, 7 FCC Rcd 7369 (1992), recon., 8 FCC Rcd 127 (1992), vacated in part and remanded sub nom. Bell Atlantic Tel. Co. v. FCC, 24 F.3d 1441 (D.C. Cir. 1994), recon., 8 FCC Rcd 7341 (1993), proceeding after remand, 9 FCC Rcd 5154 (1994) (adopting expanded interconnection rules governing provision of special access). See also Expanded Interconn. with Local Telephone Company Facilities, Second Report and Order, 8 FCC Rcd 7374 (1993), vacated in part and remanded sub nom. Bell Atlantic Tel. Co. v. FCC, 1995 U.S. App. LEXIS 12180 (D.C. Cir. Apr. 17, 1995), proceeding after remand, 9 FCC Rcd 5154 (1994) (adopting expanded interconnection rules governing provision of switched access). See also Implementation of the Local Competition Provisions in the Telecom. Act of 1996, First Report and Order, supra, at ¶¶542-607 (strengthening expanded interconnection rules even further).

provides access service since today's market conditions and regulatory safeguards substantially reduce the risk of doing so, the principle of reasoned decision making also requires that result for three different reasons. Each is discussed below.

**A. The Commission Has Permitted LEC Access
Affiliates to Provide Other Competitive
Services Under Relaxed Regulation**

First, the Commission's own precedent in authorizing independent LECs to provide other competitive services through their access affiliates subject to controls even weaker than non-dominant regulation requires the agency to let independent LECs provide interstate service under non-dominant regulation through their access affiliates. For example, the Telecommunications Act of 1996 directs the FCC to let independent LECs provide open video service ("OVS") through the entity which provides access service and to provide this service under regulations that are even less burdensome than non-dominant carrier regulation. The Act mandates this result even though it would be at least as easy for the LEC to leverage its market power into the video market as into the interstate service market.^{39/} Despite this theoretical risk, Congress concluded that the benefit outweighs the risk:

"[LECs] that deploy open [video] systems will be 'new' entrants in established markets and deserve lighter regulatory burdens to level the playing field. . . . [In addition], the development of

^{39/} Pub. L. No. 104-104, at § 302(a), 110 Stat. 56, 118-24 (1996), adding new Sec. 653 to the Commun. Act of 1934 (describing the types of regulations which the FCC can and cannot impose on a LEC providing video service via an OVS system).

competition and the operation of market forces mean that government oversight and regulation can and should be reduced."^{40/}

Similarly, the Commission permitted independent LECs two years ago to offer licensed PCS through the same entity that provides access service and to do so under regulatory controls which are less burdensome than non-dominant carrier regulation. It did this notwithstanding the fact that the LEC theoretically could unlawfully leverage into PCS any market power it has in access service to the detriment of its PCS competitors since nearly all PCS licensees use LEC access facilities. But the agency ruled that the benefit of allowing this method of operation outweighs the risk of leveraging:

"[W]e . . . find that allowing . . . [LECs] to participate in PCS may produce significant economies of scope between wireline and PCS networks. We believe that these economies will promote more rapid development of PCS and will yield a broader range of PCS services at lower costs to consumers. In addition, allowing [LECs] to provide PCS service should encourage them to develop their wireline architectures to better accommodate all PCS services . . . thus, no . . . separate subsidiary requirements are necessary for [LECs] . . . [to] provide PCS Indeed, by seriously limiting

^{40/} H.R. Conf. Rep. 458, 104th Cong. 2d Sess, Joint Explanatory Statement at 178. Because of this Congressional finding, the Commission recently rejected a request by cable TV operators, the LECs' open video system competitors, that the agency permit independent LECs to provide OVS service only through a different entity than the one providing access service. See Implement. of Sec. 302 of the Commun. Act of 1996, Open Video Systems, 3 Comm. Reg. (P&F) 196, 276 (1996), recon. denied, FCC 96-334 at §222 (rel. Aug. 8, 1996) ("[W]e believe that the Commission's Part 64 cost allocation rules . . . will adequately protect regulated telephone ratepayers from a misallocation of costs that could lead to excessive telephone rates").

the ability of . . . [LECs] to take advantage of their potential economies of scope, such separate subsidiary requirements would jeopardize, if not eliminate the public interest benefits we seek through . . . [LEC] participation in PCS."^{41/}

B. The FCC Has Found that Existing Regulations Will Control Predatory Conduct Even When LECs Provide Competitive Service and Access Service Through the Same Entity

The Commission has found that cost misallocation and discriminatory provision of access are effectively controlled by regulations other than one requiring provision of access and competitive services through separate entities. This finding also precludes the agency from barring independent LECs from providing interstate service under non-dominant regulation through their access affiliates since barring that mode of operation would be premised on the ineffectiveness of these other regulations. Thus, the Commission concluded last month that existing cost allocation rules appear to be sufficient to prevent independent LECs from misallocating interstate service costs to access service. Moreover, the agency promised to strengthen these rules if anyone can show that such strengthening is necessary to prevent cost misallocation, and it opened a rulemaking to give interested parties an opportunity to

^{41/} Amendment of the Commission's Rules to Establish New Personal Communications Services, Second Report and Order, 8 FCC Rcd. 7700, 7751 (1993). See also Eligibility for the Specialized Mobile Radio Services in the 220-222 MHz Land Mobile Band and Use of Radio Dispatch Communications, 10 FCC Rcd. 6280 (1995), recon. pending (permitting LECs to provide SMR service through their access affiliates subject to regulatory controls which are less stringent than non-dominant regulation).

provide such evidence.^{42/} The Commission likewise found earlier this month that other existing rules are sufficient to ensure that independent LECs provide access to LEC networks on nondiscriminatory terms.^{43/} It also promised to strengthen those rules "if we determine that such action is warranted."^{44/} Because of the agency's own finding that cross-subsidization and discrimination can be effectively controlled by these other regulatory requirements, it would be irrational for the Commission to impose an additional regulation barring independent LECs from providing interstate service under non-dominant regulation through their access affiliates.

C. Merely Providing Interstate and Access Services Through Separate Entities Does Not Help the FCC Prevent Predatory Conduct Harmful to Interstate Service Competition

Even if other regulations did not prevent cross subsidization or discrimination (which the FCC has found that they do as shown above), reasoned decision making still would require the Commission to let independent LECs provide interstate service under non-dominant regulation through their access affiliates since providing these services through separate entities does not help the agency prevent these abuses. Thus, the Commission's ability to prevent an

^{42/} See Accounting Safeguards Under the Telecom. Act of 1996, supra, at ¶27.

^{43/} See Implementation of the Local Competition Provisions in the Telecom. Act of 1996, First Report and Order, supra, at ¶¶542-607.

^{44/} Id. at ¶566.

independent LEC from misallocating interstate service costs to access service is not improved merely because the LEC provides interstate and access services through separate entities. Instead, all Commission rules that seek to prevent cross-subsidization apply in the same manner regardless of the identity of the entity providing interstate service, and their effective enforcement is unaffected by the identity of that entity.^{45/} The Commission's ability to prevent an independent LEC from providing access to its interstate service competitors on inferior terms also is not improved merely because the LEC provides interstate service and

^{45/} A rule requiring a LEC to provide a competitive service through an entity other than the LEC's access service affiliate cannot even theoretically help the agency prevent the LEC from misallocating costs of the competitive service to access service unless there is a second rule substantially barring the two entities from sharing resources. In that case, the job of policing the LEC's allocation of costs conceivably may be easier since cost sharing is significantly minimized. But the Commission's policy requiring an independent LEC to provide interstate service through a different entity than the one providing access service in order for the interstate service to be subject to non-dominant regulation is not accompanied by a second rule substantially barring the two entities from sharing resources. To the contrary, the Commission has made plain that the two LEC entities are free to share personnel, office space, marketing and advertising budgets, customer databases, billing systems, and numerous other resources. See, e.g., Bell Operating Co. Provision of Out-of-Region Interstate, Interexchange Service, supra, at ¶22. In fact, the only restriction the FCC places on cost sharing between the independent LEC's interstate and access service affiliates -- a prohibition against joint ownership of transmission and switching equipment -- is not a real restriction for the overwhelming majority of independent LECs. Independent LECs almost always provide interstate service by reselling the interstate offerings of their giant facilities-based competitors rather than by deploying facilities of their own. Moreover, because of their small size, independent LECs have no ability economically to deploy their own facilities to provide interstate service given the massive investment that is necessary to provide interstate service as a facilities-based carrier.

access service through separate entities. Instead, all Commission rules that seek to ensure non-discriminatory access to LEC facilities apply in the same manner regardless of the identity of the entity providing interstate service, and their effective enforcement is unaffected by the identity of that entity.^{46/}

III. At the Very Least, the Public Interest Requires that the Commission Allow an Independent LEC to Provide Interstate Service Under Non-Dominant Regulation Through the Same Entity that Provides Access Service If the LEC Serves Less than Two Percent of the Country's Access Lines

Although sound policy and the principle of reasoned decision making both require that the Commission let all independent LECs provide in-region interstate service under non-dominant regulation through the entity which provides access service for reasons described in Sections I and II above, the agency should at least permit this mode of operation for any LEC serving less than two percent of the nation's access lines.^{47/}

^{46/} While Section 251(c)(4) requires any incumbent LEC to provide to resellers at a wholesale price any telecommunications service it offers at retail, the Commission should exercise its authority under Section 10 of the Act, 47 U.S.C. 160, to forbear from requiring independent LECs to provide their interstate service offerings to resellers at a wholesale price. Section 10 authorizes the Commission to forbear from enforcing a statutory requirement whose enforcement would serve no valid purpose. The purpose of Section 251(c)(4) is to provide a mechanism by which competitors may enter a market that is not yet substantially competitive and for which other entry methods are not readily available. Requiring independent LECs to sell their retail interstate service offerings to resellers at wholesale would not serve this purpose since the Commission has held that the interstate service market is substantially competitive and that entry barriers are low.

^{47/} Allowing each independent LEC controlling fewer than two percent of the nation's access lines to offer in-region interstate
(continued...)

The benefit of exempting this category of independent LEC from the policy barring provision of in-region interstate service under non-dominant regulation when provided by the access service affiliate obviously outweighs the risk. With regard to the benefit, the Commission itself found in 1983, as indicated above, that providing interstate service and access service through the same entity is beneficial by permitting the LEC to provide this service more efficiently. Moreover, the agency found that providing access and interstate service through the same entity is especially beneficial to small LECs.^{48/} LECs serving less than two percent of the nation's access lines obviously are small LECs. That benefit is at least as great today as it was in 1983.

With regard to risk, while the Commission concluded in 1983 that the risk of permitting this mode of operation outweighed the benefit, increased competition in the core markets of LECs (Section IA above) as well as changes in the structure of the interstate market (Section IB1) and the numerous new FCC regulations (Section IB2) combine to reduce the risk significantly. Today's interstate

^{47/} (...continued)

service under non-dominant regulation when provided through the LEC's access service affiliate would bar just two of the 1,100 independent LECs -- GTE and Sprint -- from operating in this manner. These two LECs are much larger than any other independent LEC. GTE serves 11 percent of the country's access lines, and Sprint serves four percent of these lines. Phone Facts 1995, supra. SNET, the next largest LEC, serves just 1.3 percent of these lines. Id.

^{48/} Fifth Report and Order, supra, 98 F.C.C. 2d at 1199 n. 23.

market structure alone eliminates all risk that any of these small LECs could harm in-region interstate competition. Even SNET, the largest LEC in this category, would be unable unlawfully to force its in-region competitors to raise their interstate service prices by more than two-tenths of one percent even under the most worst case assumptions imaginable, as indicated in Section IB1. The FCC's new regulations make the absence of risk even more clear. All but one of the FCC regulations described in Sec. IB2 are applicable to every LEC in this category with more than 100,000 access lines. Together, these LECs (those with more than 100,000 lines but less than two percent of nationwide lines) represent two-thirds of all access lines operated by LECs serving less than two percent of the country's lines. The one remaining regulation -- price caps -- is applicable to one-third of all access lines owned by LECs with less than two percent of the nation's lines.^{49/}

The FCC has broad authority to tailor its regulatory policies to specific categories of LEC as the agency recognizes in the Notice.^{50/} Moreover, Congress acknowledged in Section 251(f)(2)

^{49/} At an absolute minimum, the Commission should provide this additional operating freedom to a LEC serving less than two percent of the nation's access lines once that LEC's core markets are fully open to competition. The agency should hold that it will deem a LEC's core markets in a particular state fully open to competition for this purpose upon certification under Section 251(e) of the Act by the state regulatory commission in that state that the LEC has entered an interconnection agreement which (a) covers a significant portion of the LEC's service area in that state and (b) meets the requirements imposed on the LEC by Section 251.

^{50/} Notice at ¶159.

of the Communications Act that it may be appropriate to regulate LECs with fewer than two percent of the country's access lines less harshly than larger LECs given their smaller size.^{51/}

CONCLUSION

The Commission should permit independent LECs to provide interstate service under non-dominant regulation through the same entity that provides access service. It can do this by eliminating the 13-year-old policy that makes the interstate offerings of independent LECs eligible for non-dominant regulation only if provided

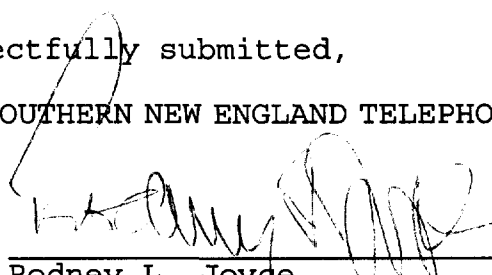
^{51/} That provision grants explicit authority to exempt such LECs from a variety of specific regulatory requirements imposed on LECs by Section 251 of the Act. SNET, the largest LEC having less than 2 percent of the nation's access lines (with 1.3 percent of those lines) is less than one-third the size of Sprint, the next largest LEC (with 4.1 percent of the country's lines).

through a different legal entity than the entity which provides access service.

Respectfully submitted,

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August 29, 1996

ATTACHMENT A

The true facts about the choices coming to Connecticut.

Connecticut is one of the first states in the nation working to adopt widespread local competition for phone service. The new competition will be all about choices...choices that can only benefit you, the consumer, because it means more and better services, at competitive prices. You'll need to know the facts to make these choices.

Fact: Now you can choose who carries your instate long distance calls.

A choice on calls like from Hartford to Danbury, or Bridgeport to Stamford.

Fact: You now have no choice as to who provides your local dialtone service.

AT&T is now working with your state representatives to create open competition for local service. We expect to be able to provide you with that service later this year.

Fact: Choice almost always benefits you, the consumer.

SNET is a good local utility, but like any utility, it's only interested in offering you one choice, their choice. The choices that will come from AT&T can only be to your advantage.

Fact: When you choose AT&T as both your instate and out-of-state long distance provider, you'll get a bill that allows a clear comparison of AT&T's rates and savings vs. your local utility, SNET.

We have consulted customers to make sure the bill was clear, informative and easy to understand.

In the short term, you can only get your local service bill from SNET. However, when AT&T is able to provide local service to Connecticut, you'll see that on your bill as well. Then you'll truly have a choice of one bill for all your telecommunication services.

We think choice is a very important part of the immediate future in Connecticut. We look forward to being able to offer you a growing array of telecommunications options, and to do so with one simple AT&T bill.

1 800-697-4056 Ext. 12066



AT&T

Your True Choice

ATTACHMENT B

By permitting a BOC to provide interstate service only through an entity other than the one providing access service, Congress concluded that the combination of a BOC's large size and large contiguous service areas may give it an ability to harm competition in its in-region interstate service market notwithstanding growing competition in the BOC's core markets and notwithstanding the fact that the interstate service market in the service area of all LECs is now dominated by very large firms. But the substantially smaller service areas of independent LEC distinguishes these companies from the BOCs. Indeed, even ignoring the reduced incentive to seek to harm competition in their in-region interstate service markets that results from declining market power in their core markets, independent LECs now clearly do not have the ability to harm competition in their respective in-region interstate service markets due to their smaller service areas as shown below.

The Commission recognizes that a LEC has a theoretical ability to harm competition in the in-region interstate service market only by leveraging any market power it may have in the access service market. The agency also recognizes that the only realistic opportunity for the LEC to leverage this power is to raise the price it charges interstate service providers for access service by misallocating its own interstate service costs to access service. This is the only realistic opportunity to leverage access market power in the in-region interstate service market given that access service is the only input into the cost of providing interstate service over which the LEC has control even assuming the absence of an alternative source from which to obtain access service.

In fact, an independent LEC could not harm competition in the in-region access service market by misallocating its interstate service costs to access service even assuming that it has

an incentive to do so as the analysis below shows. Importantly, the analysis below is not designed to reflect the negative impact that an independent LEC might reasonably have on competition in the interstate service market within its region if the Commission allows independent LECs to provide in-region interstate service under non-dominant regulation through their access affiliates. Instead, the analysis overstates the negative impact by calculating that impact based on a series of assumptions which are designed to intentionally produce an undeniably worst case impact. No one of these assumptions is realistic, and it is nearly impossible that all of them would prove valid.

First, the price of interstate access service today constitutes less than 55 percent of a carrier's cost to provide interstate service even in areas where access service is most expensive.^{1/} As a result, even if an independent LEC were somehow able unlawfully to raise the price of access service by 25 percent (an exceedingly unlikely occurrence), the LEC would have succeeded in raising its competitors' cost to provide interstate service in that geographic area by less than 14 percent ($55\% \times 25\% = 13.75\%$). But even a 14 percent increase in the cost to provide interstate service in all areas served by a single independent LEC would give that LEC no ability to damage competition in its in-region interstate market for two reasons. First, increasing the access service costs of the large incumbent interstate service providers likely would result in an identical access service cost increase for the interstate service operations of the LEC as well since nearly all independent LECs who provide interstate service do so by reselling service they acquire from their competitors. As a result, any price increase caused by

^{1/} In most areas, access service constitutes far less than 55 percent of the cost of providing interstate service in that area. In fact, the access costs imposed by a typical LEC constitute just 35 percent of the total cost to provide interstate service in that area.

increased access charges already would be embedded in the price that the independent LEC pays for the interstate service it obtains from competitors for resale to consumers.^{2/}

However, even if an independent LEC were able unlawfully to increase the costs of its in-region interstate service competitors by 14 percent without raising its own in-region interstate service costs by a comparable amount, the LEC still would have no ability to damage competition in its in-region interstate service market. This is because longstanding FCC policy -- statutorily codified this year -- would require an interstate carrier whose in-region costs had been increased by 14 percent to geographically average its interstate rates, thereby requiring it to recover its 14 percent cost increase equally from all of its interstate service customers rather than from its in-region customers alone.^{3/} Since all large interstate carriers subject to such a 14 percent access service cost increase provide nationwide interstate service, their nationwide cost increase to provide interstate service would be almost immeasurably small. For example, if SNET (the third largest of 1,100 independent LECs) were to unlawfully increase access prices by 25 percent (which it has absolutely no incentive to do because of growing access service competition) thereby increasing total costs of its in-region interstate service competitors by up to 14 percent, these competitors would be required to recover that unlawful cost increase with

^{2/} Since 98 percent of the more than 1,100 independent LECs have annual revenues of less than \$50 million, independent LECs obviously cannot afford to provide interstate service by constructing nationwide transmission networks of their own given that the cost of doing so would be billions of dollars.

^{3/} See, e.g., Section 254(a) of Commun. Act of 1934, as amended, 47 U.S. C. §254(g) (requiring Commission to continue enforcing its interstate rate averaging policy); Policy and Rules Concerning the Interstate, Interexchange Marketplace, Report and Order at ¶6 (FCC 96-331, rel. Aug. 7, 1996) (discussing FCC's longstanding interstate toll rate averaging policy and codifying that policy in its rules).

an interstate service price increase of less than two-tenths of one percent (.2%). This is because SNET serves just 1.3 percent of the nation's population ($14\% \times 1.3\% = 0.18\%$).

Even if one were to make the absurd assumption that all independent LECs, acting in concert, would unlawfully increase the costs of their much larger in-region interstate service competitors by 14 percent (by unlawfully increasing access charges 25 percent), this cost increase still would produce less than a 3.4 percent increase in the incumbent carriers' nationwide cost to provide interstate service given that independent LECs serve just 24 percent of the country's population ($14\% \times 24\% = 3.36\%$). The giant corporations who dominate the interstate service market almost certainly could absorb much of this cost increase either by reducing their non-access service expenses by reducing profits, or by obtaining access service from another source. But even if they could not do so, the independent LECs' 3.4 percent price advantage in the provision of in-region interstate service obviously would not be large enough to permit them to damage the in-region interstate service market -- let alone monopolize that market -- given the structure of the interstate service industry described in SNET's Comments.

The above analysis is based on a series of undeniably worst case assumptions. Indeed, it is inconceivable that even one of these assumptions is even close to what actually would occur. First, the assumption that interstate access charges imposed by the independent LECs who provide interstate service constitute 55 percent of the cost of providing interstate service dramatically overstates the percentage of a carrier's costs attributable to provision of interstate service in the service areas of many independent LECs. As indicated above, access charges on average constitute just 35 percent of the cost to provide interstate service in the service area of a LEC. While access charges can represent as much as 55 percent of the cost to provide interstate ser-

vice in some high cost service areas, it is almost certainly true that access charges, on average, represent far less than 55 percent of the cost to provide interstate service in the service areas of independent LECs who actually provide interstate service.

Even if access charges averaged 55 percent of the cost to provide interstate service in the service areas of independent LECs today, this percentage will begin to decline soon. FCC Chairman Hundt has announced that the Commission intends to institute a rulemaking proceeding on November 21 to reform access charge pricing and has stated that a principal objective of that proceeding will be to develop rules to substantially reduce interstate carrier access charges of all LECs over a transition period which will begin next spring.^{4/} Independent LECs will support any reasonable proposal which permits them to reduce carrier access charges since growing competition in their access service market requires price reductions in order for independent LECs to remain competitive in that market.

The assumption that an independent LEC might be able unlawfully to raise by 25 percent the access charges of interstate carriers who provide service to people in that LEC's service area also is plainly a worst case assumption. Growing competition in the access service market provides independent LECs with an incentive to lower access prices, not raise them. Even if this were not so, it is difficult even to imagine a hypothetical set of circumstances under which a LEC would be able to get away with an unlawful 25 percent access charge price increase given the specific regulatory controls which the Commission has put in place to prevent precisely that type of predatory price increase.

^{4/} See "FCC Eyes Nov. Action on Access Reform", Commun. Daily at 1-2 (Aug. 8, 1996). Implementation of the Local Competition Provisions in the Telecom. Act of 1996, First Report and Order at ¶¶6-9 (FCC 96-325, rel. Aug. 8, 1996).

The assumption that all independent LECs would unlawfully increase access charges by 25 percent makes the assumption of a 25 percent price increase even more unbelievable even if one were able to hypothesize a set of conditions that allow a few LECs to get away with doing so. The assumption of concerted action by all independent LECs is particularly unrealistic given the fact that many independent LECs do not provide in-region interstate service.